A Constitutional Amendment to reform the structure of the Judicial Branch of ASUCD.

Section 1. The ASUCD Senate hereby places the following Constitutional Amendment of the Fall 2019 Special Ballot:

**Judicial Council Reform Amendment**

_______ Yes, I approve of the Judicial Council Reform Amendment

_______ No, I do not approve of the Judicial Council Reform Amendment

BACKGROUND: The ASUCD Judicial Branch is described in the ASUCD Constitution as an appellate body. However, as there currently is no lower judicial body, this language seems misleading. At the same time, the ASUCD Judicial Council (JC) is the only body within the Judicial Branch. This poses problems from both the standpoint of appeals (it can easily deny the ASUCD Senate's request for one) and there is intermixing of high-level decision making responsibilities with more trivial and time-consuming ones, such as review of all legislation coming from the ASUCD Senate.

There are also concerns surrounding the extent of JC’s power, the process for pursuing an appealed decision, and enforcement of the Bylaws. As ASUCD’s judicial body, JC has surprisingly little ability to serve as a check on the other branches. It is able to rule on bills and resolutions as unconstitutional, but that is where its powers end. The appellate process is currently subject to a vote from the ASUCD Senate, rather than from either party involved in a particular case, and even then, JC may still refuse to re-see a case. This creates a system where a given party’s right to appeal is dependent upon a branch that has, at times, lacked concern for JC rulings, and is likely not even involved with a given case. The Bylaws largely go unenforced - there is little real consequence for a violation of a part of the Bylaws, and as frequently happens, many Bylaws are not taken seriously at best and are blatantly ignored at worst. Explicitly granting the Judicial Branch the ability to enforce violations of the ASUCD Bylaws will both grant JC greater ability to serve as a check, and give the ASUCD Bylaws greater authority.
These issues can be resolved through a constitutional reform of the Judicial Branch, and specifically, through the creation of a lower judicial body (here known as the Oversight Council). This lower body will consist of more judges than JC to help divide up the work and provide a greater diversity of perspectives. The Oversight Council should also be the primary responsible party for ensuring all bodies and employees of ASUCD (including in our units) are adhering to the ASUCD Bylaws and ASUCD Constitution. As JC members will have more authority, and are likely to be considered to have more stressful/impactful positions as a result of this amendment, it is recommended that the Oversight Council could also be a good way for eventual JC members to gain experience within the Judicial Branch and familiarity with the ASUCD Bylaws and ASUCD Constitution.

This amendment is to be followed by two main, related pieces of legislation: Chapters 24 and 25 of the ASUCD Bylaws. Chapter 24: Code of Ethics, authored by Barneond, and Chapter 25: Bylaws Enforcement, authored by Hurst, are to only be introduced after the potential passage of this amendment by the undergraduate student body. Chapter 24 will outline possible violations that could warrant a hearing from the Judicial Branch, whereas Chapter 25 will outline how the Judicial Branch shall enforce the Bylaws in the event of said violations.

Ultimately, this Constitutional Amendment seeks to create a better system of checks and balances, both within the Judicial Branch itself, and between the Judicial, Executive, and Legislative Branches.

Section 1. The ASUCD Senate hereby amends Article IV of the ASUCD Constitution as follows:

Section 1. (1) The [ultimate enforcement and adjudicating powers of the ASUCD shall be vested in the ASUCD Judicial Council (hereafter referred to as the Judicial Council), which shall consist of five (5) Councilmembers, including one (1) Chair, who shall serve terms no longer than two (2) years.

(a) The Judicial Council Chair shall be appointed by a two-thirds majority approval of the ASUCD Senate. Members of the Judicial Council shall be appointed by majority approval of the Senate, chosen from a list of nominees provided by an interviewing committee. The interviewing committee shall consist of the President, two (2) Senators, the Internal Affairs Commission Chairperson, and the Senate President Pro Tempore presiding.

(b) In the event a vacancy on the Judicial Council persists for more than four (4) consecutive academic weeks, the Senate shall not conduct business other than to fill said vacancy.

(c) Once appointed by Senate, Judicial Council nominees must recite the following Oath of Office as administered by the Internal Vice President: "I ___________________, student of the University of California, Davis, promise to abide by the ASUCD Governing Documents; Act in a fair, honest, and impartial manner; Ensure individuals’ rights are upheld when rulings are made; Review and interpret legislation and actions taken by the executive and legislative branches; and faithfully execute the duties enumerated in the ASUCD Constitution, ASUCD Bylaws, and ASUCD Internal Codes at all times during my term as a member of the ASUCD Judicial Council."

(2) Any undergraduate member of ASUCD in good academic standing based on Grade Point Average (GPA), registered as a full-time or part-time student at the University of California, Davis, shall be eligible to hold office in the Judicial Council. No member of the Judicial Council can concurrently hold any office in ASUCD that would constitute a conflict of interest or impair their impartiality as a Councilmember.

Section 2. (1) The Judicial Council shall exercise appellate jurisdiction to resolve ASUCD Constitution disputes that may arise between this Constitution, the ASUCD Bylaws, Senate Resolutions, statutes of the Senate, and/or actions taken by officials of the ASUCD. The Judicial Council shall serve as the supreme judicial body of ASUCD.

(a) Members of the Judicial Council must recuse themselves in any situation where they feel they cannot render an impartial or unbiased decision.

(2) The Judicial Council may only deny any appeal it receives, in part or in whole, by majority unanimous approval of the Judicial Council.
All decisions and/or official rulings issued by the Judicial Council with regard to a given appealed dispute shall be considered binding.

The Judicial Council shall have the authority to issue injunctions on legislation that it suspects may violate the ASUCD Constitution, or any State or Federal statute. The Judicial Council shall review all enacted legislation for adherence to this Constitution, and may issue memos informing the Senate when these conflicts exist.

The Judicial Council shall hold weekly meetings during the regular academic year to execute the various responsibilities and capacities of the Judicial Council enumerated in this Constitution and ASUCD enacted legislation.

Section 3. The Judicial Council Chair shall have the following responsibilities:

1. Presiding over weekly meetings of the Judicial Council
2. Reporting to the Senate during each academic quarter on the recent activity of the Judicial Council
3. Submitting all official rulings, memos and relevant documentation of the Judicial Council in a timely manner limited to a period of up to two (2) weeks to the appropriate ASUCD bodies for publication and archiving purposes
4. Administering the oaths of office for the Executive Cabinet
5. Coordinating update meetings with the Oversight Council Chair

Section 4. Should evidence support the notion that the Judicial Council, or a member thereof, rendered a decision grounded on misinformed or partisan beliefs, the member(s) in question shall be subject to a closed session of the Senate, and may be required to reevaluate their decision by two-thirds (2/3) approval of the entire Senate. In such a scenario.

Section 5. (1) The preliminary enforcement and adjudicating powers of the ASUCD shall be vested in the ASUCD Oversight Council (hereafter referred to as the Oversight Council), which shall consist of nine (9) Councilmembers, including one (1) Chair, who shall serve terms no longer than two (2) years.

(a) Members of the Oversight Council shall be nominated by the ASUCD President and are subject to majority approval of the Senate.

(b) The Chair of the Oversight Council shall be nominated by the ASUCD Internal Affairs Commission Chair and subject to a two-thirds approval of the Senate.

(2) Any undergraduate member of ASUCD in good academic standing based on Grade Point Average (GPA), registered as a full-time or part-time student at the University of California, Davis, shall be eligible to hold office in the Oversight Council. No member of the Oversight Council can concurrently hold any office in ASUCD that would constitute a conflict of interest or impair their impartiality as a Councilmember.

Section 6. (1) The Oversight Council shall exercise jurisdiction to resolve ASUCD Constitution disputes that may arise between this Constitution, the ASUCD Bylaws, Senate Resolutions, and/or actions taken by officials of the ASUCD.

(a) Members of the Oversight Council must recuse themselves in any situation where they feel they cannot render an impartial or unbiased decision.

(2) The Oversight Council may deny any request for ruling it receives, in part or in whole, by majority approval of the Oversight Council.

(3) All decisions and/or official rulings issued by the Oversight Council with regard to a given dispute shall be considered binding, with an opportunity for either party to appeal the decision up to the Judicial Council within a period of up to two (2) weeks of the Oversight Council ruling.
(4) The Oversight Council shall review all enacted legislation for adherence to this Constitution, and may issue memos informing the Senate when these conflict.

(5) The Oversight Council shall hold weekly meetings during the regular academic year to execute the various responsibilities and capacities of the Oversight Council enumerated in this Constitution and ASUCD enacted legislation.

Section 7. The Oversight Council Chair shall have the following responsibilities:

(1) Presiding over weekly meetings of the Oversight Council

(2) Reporting to the Senate during each academic quarter on the recent activity of the Oversight Council

(3) Submitting all official rulings, memos and relevant documentation of the Oversight Council in a timely manner limited to a period of up to two (2) weeks to the appropriate ASUCD bodies for publication and archiving purposes

(4) Providing weekly updates to the Judicial Council on the work undertaken by the Oversight Council

Section 8. Should evidence support the notion that the Oversight Council, or a member thereof, rendered a decision grounded on misinformed or partisan beliefs, the member(s) in question shall be subject to a closed session of the Judicial Council, and the Judicial Council may elect by majority vote to reevaluate the decision.

Section 9. The ASUCD Judicial Branch shall be guided by legislation hereinafter enacted.

(a) Legislation passed by the ASUCD Senate and signed by the ASUCD President concerning these chapters shall be subject to review from the Judicial Branch before taking effect.

Finance: No  Appropriation: None  Vote: Majority


DO PASS AS AMENDED, 11-0-1, BY A ROLL CALL VOTE OF THE ASUCD SENATE ON NOVEMBER 21, 2019. YES: BARAK, CHEN, CHOI, ESTRADA, KAUR, KUMAR, LANDRUM, RODRIGUEZ, RUIZ, SANCHEZ, SPINOGLIO. ABSTAIN: SCHMEDEL.

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Justin Hurst
ASUCD President

11/29/19